



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Susan Smoyer,
Department of the Treasury

CSC Docket No. 2018-3043

Classification Appeal

ISSUED: MAY 25, 2018 (JET)

Susan Smoyer appeals the decision of the Division of Agency Services (Agency Services) that the proper classification of her position with the Department of the Treasury is Property Management Services Specialist 3. The appellant seeks a Property Management Services Specialist 4 classification.

The record in the present matter establishes that at the time the appellant filed her request for a classification review, she was serving as a Property Management Services Specialist 2 (PMSS2). The appellant's position is located in the Division of Property Management and Construction, and she reports directly to Charles Connery, Assistant Division Director. The appellant does not have any supervisory duties. The appellant sought a reclassification contending that her position would be more appropriately classified as a Property Management Services Specialist 4 (PMSS4). In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties that she performed. Agency Services reviewed all documentation supplied by the appellant including her PCQ. Based on its review of the information provided, including an organizational chart and an audit of her position, Agency Services concluded that the appellant's position was properly classified as a Property Management Services Specialist 3 (PMSS3).

On appeal to the Civil Service Commission (Commission), the appellant argues that the definition section in the job specifications for the PMSS3 and PMSS4 titles are similar and her understanding is that incumbents in the PMSS4 title perform and/or may supervise more complex assignments. The appellant adds

that supervising work is not a requirement for the PMSS4 title, as the definition in the job specification indicates that incumbents “may” supervise employees. Further, the appellant states that, as a PMSS3, her duties include more than merely providing support for assignments. In this regard, her duties include overseeing tasks, maintaining timeliness of projects, and completing projects of a complex nature. In addition, the appellant explains that she does not currently supervise employees, and she informed the Agency Services representative by telephone on February 1, 2018 that she supervises the work flow and does not complete employee evaluations for employees. The appellant asserts that, prior to 2014, she was responsible for completing employee evaluations. However, such duties were removed when she was appointed as a PMSS2. Moreover, the appellant argues that there is an individual in her unit serving as a PMSS4 who is not performing supervisory duties. In support, the appellant provides a copy of the organizational chart for her unit, which indicates that Karen Dae is serving as a PMSS4 and reports to the Assistant Division Director, Charles Connery.¹

In support, Charles Connery, Assistant Division Director, Division of Property Management and Construction, asserts that he reviewed the job specification for the PMSS4 title and did not find that incumbents in the position are required to complete employee evaluations and supervise staff. He adds that, since January 2015, the appellant has been performing complex work on a daily basis, which is the primary focus of the duties listed in the job specification for PMSS4. Connery contends that the appellant’s prior classification determination evidences that her assignments included supervising employees, and she performed such work until January 2014. Connery explains that the appellant is assigned to work on complex lease projects, and she maintains the largest amount of such assignments in her unit. Moreover, he contends that, prior to when the appellant was assigned her current duties, an individual serving as a PMSS 4 was assigned to handle such assignments.

It is noted that a January 6, 2014 prior classification determination dated established that the proper classification of the appellant’s position was PMSS2.

CONCLUSION

The definition section of the job specification for Property Management Services Specialist 4 states:

Under general direction of a supervisor in the Department of the Treasury, performs the work and/or supervises the more complex work required for real property acquisition, lease and disposal, and inventory

¹ The appellant also submits an organizational chart for the Division of Property Management and Construction, Office of Real Property Acquisition and Disposition, which indicates that Brian Adams and Mary Painton are serving as PMSS4s and report to Robert Tigue, Assistant Deputy Director.

and/or planning, assessment, constructions/renovation, allocation, use and building maintenance/services, building operations, and/or contract administration for building programs or renovations; does other related work.

The definition section of the job specification for Property Management Services Specialist 3 states:

Under general direction of a Property Management Services Specialist 4 or other supervisory official in the Department of the Treasury, completes complex professional work of consideration difficulty required to provide or support real property management, real property acquisition, lease and disposal, and inventory and/or planning, assessment, construction/renovation, allocation, use and building maintenance/services, building operations, and/or contract administration for building programs or renovations; does other related duties.

Initially, the appellant's argument that she should have been classified as a PMSS4 as the job specification for that title indicates that incumbents "may" supervise is misplaced. In this regard, the PMSS4 title is assigned to the "R" Employee Relations Group (ERG), which is designated as the "Primary Level Supervisors Unit." As such, supervision is mandatory, as the Commission has required the performance of supervisory duties as a requisite for classification to a title in the "R" ERG since October 7, 2015. In order for a position to be classified in a title assigned to the primary-level supervisory ERG, incumbents are required to be the rater of employees using a formal performance evaluation system. *See In the Matter of Alan Handler, et al.*, (CSC, decided October 7, 2015); *In the Matter of Marc Barkowski, et al.*, (CSC, decided October 19, 2016); and *In the Matter of David Bobal, et al.*, (CSC, decided November 23, 2016). Additionally, Agency Services has determined that the standard required to classify titles assigned to the primary-level supervisory ERG is that position must supervise three or more lower-level employees, including the preparation and signing of their PARs. *See In the Matter of Rosemary Lynne Gash* (CSC, decided April 19, 2017). Moreover, the Commission has found that, when a position is supervisory in nature, the essential component of supervision is the responsibility for formal performance evaluation of subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 8, 2001).

For example, the Commission found in *Handler, supra*, that:

[A]n incumbent must supervise subordinate staff, including having the responsibility for performing formal performance evaluations. Merely making recommendations regarding a subordinate's performance, or even assisting in the preparation of a performance evaluation is not

sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate's supervisor.

With respect to the appellant's argument's pertaining to the definitions listed in the job specifications for the PMSS3 and PMSS4 titles, for purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. However, the definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. Moreover, the Assistant Division Director's argument that the appellant previously performed supervisory duties prior to 2014 is of no moment and does not change the outcome of the case. Indeed, the appellant did not indicate on her PCQ and she acknowledges in this matter that she does not supervise employees. Accordingly, Agency Services correctly found that the appellant's position was properly classified as a PMSS3 on the basis that she is not performing the duties of a primary or first-level supervisor as her duties do not include conducting employee evaluations.

In the instant matter, it is clear that the proper classification of the appellant's position is PMSS3. Indeed, the majority of the duties listed on the appellant's PCQ (over 50%) include such things as taking the lead in negotiating the terms and conditions of large and complex leases; overseeing the bidding processes and planning of space needs for departments with respect to continued utilization or replacement of leased facilities within assigned areas; initiating project meetings with the property owner, agency representatives and project and construction managers to discuss new lease projects; negotiating the terms concerning the initiation, continuation and abatement of rent payments, rent adjustments, and other charges and payments related to leasing properties; conducting inspections of leased properties to evaluate and recommend their suitability for continued extended leasing and for new projects; preparing summaries of lease negotiations for review by legislative committee to approve State leases. Such duties are consistent with those performed by a PMSS3.

Additionally, the appellant's position stands on its own and is classified based on the current duties she is performing. It is longstanding policy that only those duties and responsibilities assigned at the time of the request for a reclassification are to be considered. In this regard, classification appeals are based solely on the duties performed by an employee at the time of the classification review and not on any subsequent duties or organizational changes. The fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Further, it is not uncommon for an employee to perform some duties which are

above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. Moreover, the appellant has not established that Agency Services' methodology in this matter was improper or led to an incorrect result.

Finally, with respect to the Assistant Division Director's contention that the appellant is performing duties of an employee who previously held the PMSS4 title is unpersuasive. In this regard, a classification request cannot be based on a comparison to the duties of another position, especially if that position is misclassified. See *In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). See also, *In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A5011-96T1 (App. Div. October 3, 1998). With respect to the appellant's argument that there are other PMSS4 employees who are not performing supervisory duties, Civil Service rules only permit an employee the right to appeal the classification of the position he or she currently encumbers. See *N.J.A.C. 4A:3-3.9*. Generally, the incumbent of a position and his or her supervisor, manager, and appointing authority are in the best position to attest to the duties performed in the position. Similarly, that employee is not in the best position to attest to the duties and responsibilities of another employee's position. Thus, in conjunction with the fact that the duties, responsibilities, reporting relationships, and classification standards may change over time, position classification reviews cannot simply be triggered based on a co-worker's speculation of the duties assigned to a position he or she does not encumber. While there may be a situation where the Commission could order such a review of other positions, for the reasons stated earlier, it is not warranted in this matter. However, the Department of the Treasury is directed to ensure that **any** employee in the title of PMSS4 are currently assigned appropriate supervisory duties as described above.

Accordingly, there is no basis to disturb the determination of Agency Services that the appellant's position is properly classified as PMSS3.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION
THE 23rd DAY OF MAY, 2018



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